

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID J. DOYAGA, as Trustee of the Estate of :
MAKEBA L. SCREEN, :
: Plaintiff, : 22 Civ. 3908 (JPC)
: :
-v- : ORDER
LIDIA POWELL and UNITED STATES POSTAL :
SERVICE, :
: Defendants. :
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JOHN P. CRONAN, United States District Judge:

The Complaint in this action, which was filed on May 18, 2022, alleges a cause of action under the Federal Tort Claims Act against the United States Postal Service (the “USPS”) and one of its alleged employees. Dkt. 1. On August 1, 2022, Plaintiff served the individual Defendant, Lidia Powell (“Powell”), by personal service. In addition, on the same date Plaintiff attempted to serve the USPS by both personal service on an individual authorized to accept service for the U.S. Attorney’s Office for the Southern District of New York and certified mail sent to “United States Postal Service, 10th & Constitution Aves NW, Washington DC 20530.” Rule 4(i)(2) of the Federal Rules of Civil Procedure specifies that “to serve a United States agency . . . a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency.” Fed. R. Civ. P. 4(i)(2). Rule 4(i)(1), in turn, specifies that “[t]o serve the United States, a party must: (A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk . . . [and] (B) send a copy of each by registered or certified mail to the Attorney General of

the United States at Washington, D.C.” Fed. R. Civ. P. 4(i)(1). Because Plaintiff has complied neither with the requirement to send a copy of the summons and of the complaint to the USPS nor with the requirement to send a copy of the summons and of the complaint to the Attorney General, his attempted service of the USPS was ineffective, and the USPS has not yet been served in this action.

Federal Rule of Civil Procedure 4(m) provides that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Pursuant to Rule 4(m), Plaintiff is therefore ordered to serve the USPS properly by September 20, 2022.

SO ORDERED.

Dated: September 6, 2022
New York, New York



JOHN P. CRONAN
United States District Judge